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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,000	04/07/2006	Norihide Mizoguchi	112780-053	2283

43793 7590 06/18/2007
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EXAMINER

LOPEZ, FRANK D

ART UNIT	PAPER NUMBER
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3745

MAIL DATE	DELIVERY MODE
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06/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/575,000

Applicant(s)

MIZOGUCHI ET AL.

Examiner

F. Daniel Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/7/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

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Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on October 10, 2004. It is noted, however, that applicant has not filed a copy of the PCT/JP04/144827 application as required. In order to grant 371 status to this application, the front page of PCT/JP04/144827, showing that the US was a designated state and that priority was claimed to the below Japanese document, must be submitted. It is noted that the certified copy of JP 2003-351449 has been received.

Specification

The disclosure is objected to because of the following informalities: throughout the specification, reference to specific claims (e.g. paragraph 29) must be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

In claim 4 line 3 "an upper limit opening area" is confusing, since it would appear that the upper limit is set by the maximum amount the valve can be opened.

Claims 5 and 6 are indefinite, since they depend from claim 4.

Double Patenting

Applicant is advised that should claim 4 or 5 be found allowable, claim 7 or 6, respectively will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

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It would appear the claim 4 is basically claiming that the valve is a variable throttle valve (see also the 112 rejection), which is what claim 7 is claiming.

Claim 5 claims that if A (load pressure or speed) increases, B (opening) decreases; whereas claim 6 claims if A, decreases, B increases. They are the different ways of saying the same thing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Sautome; using Yamashita. Sautome discloses a working vehicle comprising a directional control valve (30) controlling pressure oil supplied from a pump (20) to an actuator (50); a ride control valve (42), in a control block (40) controlling communication between an accumulator (53) and a pressure chamber (e.g. 52) of the actuator; wherein the lines connecting the directional control valve to the actuator are shown schematically as going through the control block; but does not specifically state that the ride control valve is arranged on the directional control valve in a laminated manner by internal piping.

Yamashita shows first and second control valves (fb); wherein the second valve is part of a second control block; and wherein lines connected to the first control valve are shown schematically as going through the second control block (fig 3); that the schematic means that the second control valve is arranged on the first control valve in a laminated manner by internal piping (fig 4, column 1 line 36-38).

Since Yamashita teaches how the schematic of Sautome is physically assembled; then the schematic of Sautome means that the ride control valve is arranged on the directional control valve in a laminated manner by internal piping. If not, it would have been obvious at the time the invention was made to one having

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ordinary skill in the art to arrange the ride control valve of Saotome on the directional control valve in a laminated manner by internal piping, as taught by Yamashita, as a matter of engineering expediency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 2 and 4-7 are rejected under 35 U.S.C. § 103 as being unpatentable over Saotome in view of Japan 06-330,535. Saotome discloses all the elements of claims 2 and 4-7, as discussed in the above 102/103 rejection; but does not disclose that a first pressure sensor detecting a load pressure of the actuator or a travel state detecting sensor detecting a travel state generates a signal, which is used to control an opening area of the ride control valve, such that as the load pressure or speed increases, the opening decreases.

Japan 06-330,535 teaches, for a working vehicle comprising a directional control valve (4) controlling pressure oil supplied from a pump (1) to an actuator (2); a ride control valve (8), controlling communication between an accumulator (7) and a pressure chamber (via 11) of the actuator; that first and second pressure sensors (10a, 10b, respectively) detecting a load pressure of the actuator and an accumulator pressure, respectively, generates signals, which are used to control an opening area (8a) of the ride control valve, such that as the load pressure increases (relative to the pressure of the accumulator), the opening decreases, for the purpose of suppressing the vibration with good response (abstract, last line).

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Since Saotome and Japan 06-330,535 are both from the same field of endeavor, the purpose disclosed by Japan 06-330,535 would have been recognized in the pertinent art of Saotome. It would have been obvious at the time the invention was made to one having ordinary skill in the art to have first and second pressure sensors detecting a load pressure of the actuator and an accumulator pressure, respectively, of Saotome, which generates signals, which are used to control an opening area of the ride control valve, such that as the load pressure or speed increases, the opening decreases, as taught by Japan 06-330,535, for the purpose of suppressing the vibration with good response.

Conclusion

Claims 3 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action (i.e. idiomatic English) and to include all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Palmer et al refers to a ride control valve with a valve element sensing load and accumulator pressures, and reducing the accumulator pressure, when the accumulator pressure is above the load pressure, to a value a small amount above the load pressure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM -4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
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June 8, 2007